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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 10-0914 TEH
)	
Plaintiff,)	STIPULATION CONCERNING
)	PROCEDURE FOR HENTHORN
v.)	COMPLIANCE AS TO POTENTIAL
)	CHP WITNESS AND <u>[PROPOSED]</u> ORDER
ABEL RUBIO-LARA,)	
)	
Defendant.)	
_____)	

The parties respectfully stipulate as follows:

1. The United States may call as a witness at trial an employee of the California Highway Patrol (CHP), Officer Charles Bowers. The defense has moved to exclude his testimony. The Court has set a motions hearing to consider arguments on the motion.

2. To comply with its obligations under *United States v. Henthorn*, 931 F.2d 29 (9th Cir. 1991), the United States sought information from the California Highway Patrol regarding CHP Officer Charles Bowers, in an effort to identify material information that relates to his truthfulness or untruthfulness. California Highway Patrol has advised the United States that it

will only disclose such *Brady/Giglio* information to the Court *in camera*. See Attached CHP Letter, dated September 9, 2011.

3. The parties respectfully request that the Court issue the attached proposed order, which would require the Area Office of the CHP to deliver to the Court in a sealed envelope before trial any potential impeachment information in the possession of the Area Office concerning Officer Bowers.

4. Upon receipt of the requested information from the Area Office of the California Highway Patrol, the parties respectfully request that the Court review the information and disclose to the parties, in advance of trial, any material impeachment information concerning Officer Bowers.

IT IS SO STIPULATED.

DATED: September 20, 2011

/s/

RONALD TYLER
Assistant Federal Public Defender

DATED: September 20, 2011

/s/

PATRICIA SPALETTA
Special Assistant United States Attorney

1 ~~[PROPOSED]~~ ORDER

2 Pursuant to stipulation, and for good cause shown, the Court hereby orders as follows:

3 The Area Office of the California Highway Patrol in Redwood City, California shall
4 review its files for potential impeachment information concerning employee Officer Charles
5 Bowers. This information may include, but is not limited to, (a) specific instances of conduct of
6 the employee which might be used for the purpose of attacking the witness's credibility or
7 character for truthfulness; (b) evidence in the form of opinion or reputation as to an employee's
8 character for truthfulness; (c) prior inconsistent statements; or (d) information that may be used
9 to suggest that he may be biased, including any awards and/or incentive payments given or made
10 to the employee for work on the instant case.

11 The United States shall serve the Order upon the Area Office of the California Highway
12 Patrol, Redwood City, California. Within 48 hours of service of this Order upon the Area Office
13 of the California Highway in Redwood City, California, the California Highway Patrol shall
14 deliver, in a sealed envelope, any potential impeachment information on California Highway
15 Patrol Officer Charles Bowers to the attention of Ms. Tana Ingle, Deputy Clerk for the Honorable
16 Thelton E. Henderson, United States District Court, Clerk's Office, 450 Golden Gate Avenue,
17 16th Floor, San Francisco, CA 94102.

18 Upon receipt of this information, the Court will review any materials provided to it by the
19 California Highway Patrol. The Court will disclose to the parties, in advance of trial, any
20 impeachment information that meets the materiality requirement established by *United States v.*
21 *Henthorn*, 931 F.2d 29 (9th Cir. 1991).

22 IT IS SO ORDERED.

23
24 DATED: 9/20/2011

